REMARKS/ARGUMENTS

Applicants respectfully request reconsideration of the application.

I. Status of the Claims

Claims 3, 4, and 9-13 were previously pending. Claims 1, 2, and 5-8 were previously canceled without prejudice to or disclaimer of the subject matter contained therein.

Claim 10 is herein cancelled without prejudice or disclaimer of the subject matter contained therein.

Claims 3, 11, and 12 are herein amended, adding the limitation "wherein each of the first and second active ingredients have two different average particle sizes". Support for this amendment can be found in at least, for example, canceled claims 1 and 5.

Specifically, claim 1 as originally filed recited "the formulation having a particle size distribution wherein each of the first and second active ingredients have two different average particle sizes"; and claim 5 as originally filed also recited "the formulation having a particle size distribution wherein each of the first and second active ingredients have two different average particle sizes".

Accordingly, no new matter is introduced by these amendments.

Upon entry of this Response, claims 3, 4, 9, and 11-13 are pending and at issue.

II. Rejection of Claims 3, 4, and 9-12 under 35 U.S.C. § 103(a) over Suzuki in view of Hoy

Claims 3, 11 and 12 have been amended to recite ", wherein each of the first and second active ingredients have two different average particle sizes."

The Examiner asserts that Suzuki teaches a method of making a water dispersible granule formation by using "WDG-SC" with an average size of 1.5 microns, which is produced by admixing an active agent, a wetting and dispersing agent, and water and subjecting the mixture to wet granulation. In addition, the Examiner asserts that Hoy teaches dry milling at least one active ingredient, a wetting/drying agent, and a mineral carrier to an average size of less than 5 microns. The Applicant respectfully traverse, on the basis that the combined teachings of the prior art do nit teach or suggest the claims as amended.

More specifically, in the claimed process, the first active ingredient is pulverized to an average particle size value from about 0.5 μm to about 5 μm in the step of wet milling the combined mixture, the second active ingredient is pulverized to an average particle size value from about 3 μm to about 30 μm in the step of pulverizing the combined mixture under dry milling, and each of the first and second active ingredients have two different average particle sizes. Thus, the process of claims 3, 11 and 12 as amended calls for two active ingredients that must have different particles sizes. By the co-existence of the first and second active ingredients which have two different average particle sizes, it has been discovered for the first time that the enhancements of both the initial and residual activity of an active ingredient are observed (*See, e.g.*, the original specification as published (US 2004/0057971), at ¶¶ [0012], [0021]-[0023]. Suzuki does not teach or suggest two active ingredients with different particle sizes. Nor does Suzuki teach or suggest the criticality of using two active ingredients with different particle sizes, or that initial and residual activity of the active ingredients is enhanced by using active ingredients of different particle sizes. In fact, the Applicant is the first to discover this attribute of the presently claimed process.

In fact, neither Suzuki nor Hoy are focused on the average diameter sizes which are the critical features of the present invention. In addition, Suzuki and Hoy do not teach or suggest the ranges of the average diameter sizes.

Thus, one of ordinary skill in the art at the relevant time (i.e., the time of filing the instant patent application), upon reviewing the combined teachings of Suzuki and Hoy, would not be able to arrive at the claimed process for producing a water disposable granule formulation having enhancement of both the initial and residual activity of an active ingredient by the co-existence of the first and second active ingredients with **two different average particle sizes**, wherein the first active ingredient is pulverized to an average particle size value from about 0.5 μm to about 5 μm in the step of wet milling, the second active ingredient is pulverized to an average particle size value from about 3 μm to about 30 μm in the step of dry milling. Thus, for at least this reason, claims 1, 11, and 12, are not obvious over Suzuki in view of Hoy.

Claims 4, 9 and 13 depend from claim 3. A dependent claim includes all the limitations of the claim from which it depends (and further limits the claim). Thus, because claim 3 is not obvious over Suzuki in view of Hoy, claims 4, 9 and 13 are not obvious, either.

Claim 11 and 12 have been amended to recite ", wherein each of the first and second active ingredients have two different average particle sizes."

Therefore, for the aforementioned reasons, claims 3, 4, 9 and 11-13 are not obvious over Suzuki in view of Hoy, and the Applicant respectfully requests withdrawal of this rejection.

CONCLUSION

In view of the foregoing, it is believed that claims 3, 4, 9 and 11-13 are in immediate condition for allowance. and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

By _____

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